IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.20 OF 2003
IN
NOTICE OF MOTION NO.2478 OF 1997
IN
SUIT NO.2906 OF 1997

ALONGWITH

SHOW CAUSE NOTICE NO.1146 OF 2003

Varsha Shamrao Ramteke. ...Petitioner(orig.plff)

vs.

1.Sunita Subhash Chhapwale & others. ...Respondents

Mr.Rajesh Shah i/b. J.B.Patel, for Petitioner.

Mr.G.N.Salunke, for Respondent no.1.

Mr.Anil Bugde, for Respondent nos.2,3,5,9 to 11.

CORAM: D.K.DESHMUKH,J.

DATED: 22nd January, 2007.

P.C.:-

1. By this petition, the petitioner alleges that the defendant nos. 2, 3 and 5 have acted contrary to the statement made by them which is recorded in the order dated 28.8.1997 that they will maintain

status quo in relation to the shop premises. According to the petitioner, the defendant nos. 2, 3 and 5 have inducted respondent nos. 9, 10 and 11 into the shop and defendant nos. 9, 10 and 11 are in possession of the shop and that they are carrying on business in the shop in their own rights. The defendant no.2 has filed an affidavit disputing this position and claiming that it is the defendant nos. 2,3 and 5 who are carrying on business and defendant nos.9,10 and 11 are merely assisting them. The defendant nos. 9, 10 and 11 do not claim any interest in the shop and they are also not in possession of the shop. The defendant nos. 9, 10 and 11 have filed affidavit in this Court confirming the position stated in the affidavit of defendant no.2. They have stated that they are not carrying on business from the shop in question. They have stated that they are not in possession of the shop. They have further stated that they do not claim any interest in the shop as also in the business which is being carried on in the shop. The learned Counsel appearing for petitioner relying on the report of the commissioner submits that the statement made by the defendant nos. 9,10 and 11 that they are not in possession of the shop, is not correct.

2. In my opinion, however, in view of the clear affidavit filed by the respondent nos.9, 10 and 11 that they are not in possession of the shop, that they do not claim to be in possession of the shop, that they do not claim to be carrying on any business in the shop, that they

do not claim any interest in the shop and they do not claim any interest in the business which is being carried on in the shop, it is not necessary to make any further inquiry. An interim order is made in the litigation for the benefit of one of the parties to the litigation. In the present case, the Court has recorded the statement made by the defendant nos. 2,3 and 5 that they will maintain status quo in relation to the shop premises which is the property in dispute because the Court wanted to protect the interest of the plaintiff. The plaintiff is claiming a decree in the suit in relation to the shop. The defendant nos. 2, 3 and 5 at the instance of the Court has made statement which is recorded in the order dated 28.8.1997 so that there are no third party interest created during the pendency of the suit. If any third party interest are permitted to be created by the litigant during the pendency of the suit, it creates difficulty in the way of the plaintiff firstly getting the decree which he is praying in the suit, and secondly in execution of that decree. Therefore, once the Court is satisfied that there are no third party interest created and the persons in whose favour, according to the plaintiff, third party interest has been created those persons appeared before the Court and claim that they do not claim any interest, in my opinion, the purpose for which the interim order is prayed by the litigant is served. In this situation, therefore, in my opinion, it will not be appropriate to make any further orders in this contempt petition. In view of the clear statements made by defendant

nos. 9,10 and 11 that they are not claiming any interest in the shop premises and the business carrying on in the premises, the petition is disposed of. The Show cause notice issued is discharged.